

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR 03-2072 JB

ANTONIUS MARIA HEIJNEN,

Defendant.

**MEMORANDUM OPINION AND ORDER**

**THIS MATTER** comes before the Court on the Defendant's Motion for stay of proceedings and change of venue, filed August 11, 2005 (Doc. 185). The primary issue is whether the Court should stay the sentencing proceedings and transfer this case to another court. Because Defendant Antonius Maria Heijnen has raised these arguments, or versions of them, throughout the trial, the Court will deny the motion.

**ANALYSIS**

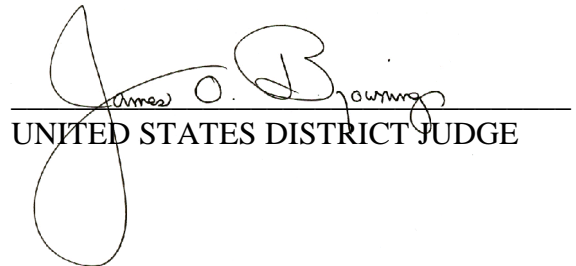
Heijnen advances two principal arguments in support of his motions. Both arguments repeat assertions that Heijnen has made throughout the case. The Court addressed these arguments before trial, and there is no reason to stay the sentencing or to transfer the case to another court. Instead, it is the public's interest and Heijnen's interest that the Court proceed to sentencing and allow him to raise his legal arguments on appeal.

First, Heijnen contends that the Assistant United States Attorneys, Jonathon M. Gerson and Stephen R. Kotz, the attorneys the United States Attorneys Office assigned to this case, do not have authority to represent the Plaintiff. The Court has found that this contention lacks a basis in law or

fact. The Court rejected the argument on July 31, 2005, see (Doc. 91), when it denied Heijnen's Third Motion to Dismiss, see (Doc. 67). Heijnen's re-assertion of the argument does not promote a sound basis to stay the case or to transfer the case to another court, where the United States is likely to prosecute the case in the same manner it has this action. The better route is for Heijnen to raise his legal argument on direct appeal.

Second, Heijnen again argues that a change of venue is warranted because the Court is not a "constitutional Article III district court of the United States." The Court has not seen authority for Heijnen's construction of the Constitution. The Court previously rejected this argument. See Doc. 81. While the Court is confident its conclusion is correct, more importantly at this stage, the Court does not believe Heijnen's re-assertion of the argument justifies a stay of proceedings or a change of venue. Again, if Heijnen's argument has merit, and the Court incorrectly denied his motions on this legal theory, the best resolution for the petition and for Heijnen is for him to raise this issue on direct appeal.

**IT IS ORDERED** that the Defendant's Motion for stay of proceedings and change of venue is denied.



UNITED STATES DISTRICT JUDGE

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